THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4596 of 1998

DATED: 08.06.2007

Between:

N. Venkateshwar Rao .. Petitioner.

And

The Managing Director, APSRTC,
Musheerabad at Hyderabad,
and another. .. Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4596 of 1998

ORDER:

This writ petition is filed for a Writ of Mandamus to direct the respondents to absorb the petitioner into the service of Andhra Pradesh State Road Transport Corporation in pursuance of the circulars issued by the respondents vide PD.126/87, dated 23.11.1987, and PD.1/96, dated 12.03.1996 by declaring the order, dated 12.07.1997, passed by respondent no.2, whereby the petitioner's claim for absorption was rejected, as null and void.

2. The petitioner, who claims to be a displaced employee in a private bus plied on the route, which was subsequently nationalized, earlier filed W.P.No.20016 of 1996 before this Court and the said writ petition was disposed of with a direction to the respondents to consider the case of the petitioner in terms of circular PD.126/87, dated 23.11.1987. Consequently, the Regional Manager i.e., respondent No.2 evidently issued a show cause notice, dated 29.03.1997, calling upon the petitioner to produce the required certificates namely L.E.O. (Labour Enforcement Officer) certificate, wage and attendance registers, PF recovery particulars, check reports, conductor/supervisor licence for the period of work. Though the petitioner has not filed the copies of show cause notice and the explanation submitted by him in this writ petition, the impugned order shows that he submitted his explanation on 16.06.1997.

3. The Chief Law Officer of Andhra Pradesh State Road Transport Corporation filed a counter affidavit, in which, it is mentioned that in respect of vehicle No.APT 8585 plied on the route Kagaznagar to Bejjur, which was nationalized on 01.03.1991, applications were called for from the genuine displaced conductor and driver candidates by paper notification and also by addressing letter to the Labour Enforcement Officer to send a list of genuine displaced conductors and drivers for consideration, and that of the candidates, who appeared for interview before the selection committee, two persons, who were identified as displaced conductors, were absorbed. It is further stated that in pursuance of the orders passed in W.P.No.20016 of 1996, the petitioner along with seven others were interviewed on 25.01.1997, and on the recommendations of the Selection Committee, a show cause notice, dated 29.03.1997, was issued. It is further stated that the Selection Committee, after perusal of the explanation to show cause notice, rejected the claim of the petitioner for absorption as it has found that the petitioner's claim was not genuine.

4. Heard Sri S.Chandra Sekhar, learned counsel for the petitioner, and none appeared for the respondents.

5. Sri S.Chandra Sekhar, learned counsel for the petitioner, submitted that though he produced the certificate issued by the Assistant Labour Officer, as there was no post with a designation Labour Enforcement Officer, the same was not accepted by the Selection Committee.

6. However, in the counter, with reference to the said contention, it is submitted as under:-

> "I submit that the petitioner stated in his affidavit that there is no post of the L.E.O. in the state and the A.L.O. is

> acting as L.E.O. who has attested the service certificate issued by the owner based on the records of the vehicle available with the A.L.O. is not acceptable. The Labour Officer is the first gazetted post in the Labour Department who was earlier called as L.E.O. and he is the competent authority to issue the certificate but not the A.L.O and as such the attestation of A.L.O. is not authentic."

The question whether the certificate of experience produced by the petitioner was genuine or not was examined by the Selection Committee, and it has come to the conclusion that the petitioner failed to produce the required certificates. This controversy being in the realm of disputed questions of fact, this Court cannot adjudicate upon the question whether the petitioner's claim that he worked with the private operator on the displaced route was correct or not. Moreover, the petitioner failed to file before this Court the copies of show cause notice and the explanation submitted by him, without which, this Court cannot give any comprehensive finding on this disputed issue.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

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(C.V.NAGARJUNA REDDY,J)

Dt.08.06.2007

v v